

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-MUZ-1 [v.3] (06/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

06/02/2016 10:57:06 AM

Short Title: Drafting Test.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT .

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 22 reads as rewritten:

"Rule 22. Interpleader.

(a) Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims expose or may expose the plaintiff to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of crossclaim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

(b) Where funds are subject to competing claims by parties to the action, the court may order the party in possession of the funds either to deposit the funds in an interest bearing account in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured depository institution or a trust institution (as defined in G.S. 53-301) with a physical office in this State or to deposit the funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company, federally insured depository institution or a trust institution (as defined in G.S. 53-301) with a physical office in this State~~, the court shall specify the type of interest bearing account to be used. Funds deposited with the clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon determination of the action, the judgment shall provide for disbursement of the principal and interest earned on the funds while so deposited."

SECTION 2. G.S. 20-63.01 reads as rewritten:

"§ 20-63.01. Bonds required for commission contractors.

(a) A guaranty bond is required for each commission contractor that is not a governmental subdivision of this State that is granted a contract to issue license plates or conduct business pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.

The Division may revoke, with cause, a contract with a commission contractor that fails to maintain a bond or an alternative to a bond, pursuant to this section.

(b) (1) When application is made for a contract or contract renewal, the applicant shall file a guaranty bond with the clerk of the superior court and/or the register of



deeds of the county in which the commission contractor will be located. The bond shall be in favor of the Division. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to the Division for a loss of revenue for any reason, including bankruptcy, employee embezzlement or theft, foreclosure, or ceasing to operate.

(2) The bond shall be in an amount determined by the Division to be adequate to provide indemnification to the Division under the terms of the bond. The bond amount shall be at least one hundred thousand dollars (\$100,000).

(3) The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Division. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(4) The Division may be able to negotiate bonds for contractors who qualify for bonds as a group under favorable rates or circumstances. If so, the Division may require those contractors who can qualify for the group bond to obtain their bond as part of a group of contractors. The Division may deduct the premiums for any bonds it may be able to negotiate at group rates from the commissioned contractors' compensation.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Division; (ii) which is executed by the applicant; (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

(2) A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section."

SECTION 3. G.S. 42A-17(a) reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings and loan association~~ federally insured depository institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 4. G.S. 85B-7.1(a) reads as rewritten:

1 "(a) Each licensee who does not disburse all funds to the seller on auction day shall
2 maintain a trust or escrow account and shall deposit in the account all funds that are received for
3 the benefit of another person and are not disbursed to the seller on auction day. The licensee shall
4 deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan~~
5 ~~association~~ a federally insured depository institution located in North Carolina. At or before the
6 time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement
7 statement, which includes a description of all goods sold, the selling price of the goods sold, the
8 net proceeds due to the seller or consignor, the name and address of the person receiving the
9 disbursement, and the amount of the disbursement. All settlement statements shall be signed by
10 the licensee or the licensee's agent and by the person receiving the disbursement."

11 **SECTION 5.** G.S. 85B-8 reads as rewritten:

12 **"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of**
13 **license.**

14 (a) The following shall be grounds for the assessment of a civil penalty in accordance with
15 G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or
16 auction firm license:

17 ...

18 (7) Commingling the funds or property of a client with the licensee's own or failing
19 to maintain and deposit in a trust or escrow account in ~~an insured bank or~~
20 ~~savings and loan association~~ a federally insured depository institution located in
21 North Carolina funds received for another person through sale at auction.

22 "

23 **SECTION 6.** G.S. 86A-22 reads as rewritten:

24 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

25 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
26 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
27 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber
28 school or college shall be approved by the Board unless the school or college meets all of the
29 following requirements:

30 ...

31 (7) a. Each school shall provide a guaranty bond unless the school has already
32 provided a bond or an alternative to a bond under G.S. 115D-95.

33 The North Carolina State Board of Barber Examiners may revoke
34 the approval of a school that fails to maintain a bond or an alternative to
35 a bond pursuant to this subdivision or G.S. 115D-95.

36 b. When application is made for approval or renewal of approval, the
37 applicant shall file a guaranty bond with the clerk of the superior court
38 of the county in which the school will be located. The bond shall be in
39 favor of the students. The bond shall be executed by the applicant as
40 principal and by a bonding company authorized to do business in this
41 State. The bond shall be conditioned to provide indemnification to any
42 student, or his parent or guardian, who has suffered a loss of tuition or
43 any fees by reason of the failure of the school to offer or complete
44 student instruction, academic services, or other goods and services
45 related to course enrollment for any reason, including the suspension,
46 revocation, or nonrenewal of a school's approval, bankruptcy,
47 foreclosure, or the school ceasing to operate.

48 The bond shall be in an amount determined by the Board to be
49 adequate to provide indemnification to any student, or his parent or
50 guardian, under the terms of the bond. The bond amount for a school
51 shall be at least equal to the maximum amount of prepaid tuition held at

any time during the last fiscal year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for approval shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subpart and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subpart. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.

2. A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 7. G.S. 88B-17 reads as rewritten:

"§ 88B-17. Bond required for private cosmetic art schools.

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a

1 bonding company authorized to do business in this State. The bond shall be
2 conditioned to provide indemnification to any student or the student's parent or
3 guardian who has suffered loss of tuition or any fees by reason of the failure of
4 the school to offer or complete student instruction, academic services, or other
5 goods and services as related to course enrollment for any reason, including
6 suspension, revocation, or nonrenewal of a school's approval, bankruptcy,
7 foreclosure, or the school's ceasing to operate.

8 (2) The bond amount shall be at least equal to the maximum amount of prepaid
9 tuition held at any time by the school during the last fiscal year, but in no case
10 shall be less than ten thousand dollars (\$10,000). Each application for license or
11 license renewal shall include a letter signed by an authorized representative of
12 the school showing the calculations made and the method of computing the
13 amount of the bond in accordance with rules prescribed by the Board. If the
14 Board finds that the calculations made and the method of computing the
15 amount of the bond are inaccurate or that the amount of the bond is otherwise
16 inadequate to provide indemnification under the terms of the bond, the Board
17 may require the applicant to provide an additional bond.

18 (3) The bond shall remain in force and effect until canceled by the guarantor. The
19 guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation
20 of the bond shall not affect any liability incurred or accrued prior to the
21 termination of the notice period.

22 (c) An applicant who is unable to secure a bond may seek from the Board a waiver of the
23 guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this
24 subsection. With the approval of the Board, an applicant may file one of the following instead of a
25 bond with the clerk of court in the county in which the school is located:

26 (1) An assignment of a savings account in an amount equal to the bond required
27 that is in a form acceptable to the Board, and is executed by the applicant and a
28 ~~state or federal savings and loan association, state bank, or national bank that is~~
29 ~~doing business in this State and whose accounts are insured by a federal~~
30 ~~depositor's corporation, federally insured depository institution lawfully doing~~
31 business in this State, and access to the account is subject to the same
32 conditions as those for a bond in subsection (b) of this section.

33 (2) A certificate of deposit that is executed by a ~~state or federal savings and loan~~
34 ~~association, state bank, or national bank that is doing business in this State and~~
35 ~~whose accounts are insured by a federal depositor's corporation~~ federally
36 insured depository institution lawfully doing business in this State and access to
37 the certificate of deposit is subject to the same conditions as those for a bond in
38 subsection (b) of this section."

39 **SECTION 8.** G.S. 90-171.55 reads as rewritten:

40 **"§ 90-171.55. Nurses Aides Registry.**

41 (a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses
42 Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider
43 those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing
44 facilities who meet applicable State and federal registry requirements as adopted by the North
45 Carolina Medical Care Commission as having fulfilled the training and registry requirements of
46 the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board
47 may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The
48 Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer
49 or prospective employer of the registry applicant. Fees collected may be used by the Board in
50 administering the registry. The Board's authority granted by this Article shall not conflict with the
51 authority of the Medical Care Commission.

(b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.

(2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or the program ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a program shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the program. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for a license shall include a letter signed by an authorized representative of the program showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subdivision and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

a. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

- b. A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection."

SECTION 9. G.S. 90-210.86 reads as rewritten:

"§ 90-210.86. Deposit or investment of funds of mutual burial associations.

Funds belonging to each mutual burial association over and above the amount determined by the Board of Funeral Service to be necessary for operating capital shall be invested in:

- (1) Deposits in any ~~bank or trust company in this State~~ federally insured depository institution or any trust institution (as defined in G.S. 53-301) with a physical office in this State.
- (2) Obligations of the United States of America.
- (3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.
- (4) Obligations of the State of North Carolina.
- (5) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Board of Funeral Service may impose.
- (6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that any such savings and loan association is insured by the United States of America or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.
- (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

Violation of the provisions of this section shall, after hearing, be cause for revocation or suspension of license to operate a mutual burial association. "

SECTION 10. G.S. 93A-3 reads as rewritten:

"§ 93A-3. Commission created; compensation; organization.

...

(b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall receive as compensation for each day spent on work for the Commission a per diem in an amount established by the Commission by rule, and mileage reimbursement for transportation by privately owned automobile at the business standard mileage rate set by the Internal Revenue Service per mile of travel along with actual cost of tolls paid. The total expense of the administration of this Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission or the compensation or expenses of any office thereof or any employee shall ever be paid or payable out of the treasury of the State of North Carolina; and neither the Commission nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt or other financial obligation binding upon the State of North Carolina. After all expenses of

operation, the Commission may set aside an expense reserve each year. The Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository institution or any trust institution (as defined in G.S. 53-301) with a physical office in this State. Moneys also may be invested in the same classes of securities referenced in G.S. 159-30(c).

...."

SECTION 11. G.S. 93A-42 reads as rewritten:

"§ 93A-42. Time shares deemed real estate.

...

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and loan association located in this State.~~ federally insured depository institution lawfully doing business in this State. The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by the independent escrow agent.

...."

SECTION 12. G.S. 93A-45 reads as rewritten:

"§ 93A-45. Purchaser's right to cancel; escrow; violation.

...

(c) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by such developer or salesperson in a trust or escrow account in an ~~insured bank or savings and loan association in North Carolina~~ a federally insured depository institution lawfully doing business in this State and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

...."

SECTION 13. This act is effective when it becomes law.

David Unwin (Bill Drafting)

From: Evelyn Hawthorne <ehawthorne@carolinasleague.org>
Sent: Tuesday, May 31, 2016 03:51 PM
To: Bly Hall (Bill Drafting); Floyd Lewis (Bill Drafting); David Unwin (Bill Drafting)
Cc: Dan Schline; Zechini, Richard
Subject: updated draft
Attachments: GS Commission draft2.docx

Hi all. Thank you very much for a productive meeting today

Attached is an updated draft for your consideration. We referenced the authority for each recommended change (in red type), deleted two of the recommended changes (per our discussion, 90-210.86 (6) and (7)) and answered Bly's question (green type).

Please let me know if you need anything further or if I can assist in any other way. Thank you for your guidance and consideration.

Best, esh

Evelyn Hawthorne
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Credit Unions Excluded

Below follows a listing of General Statutes references to “banks” where we believe credit unions were omitted. In working on corrections in other references (namely, those dealing with real estate), the terminology “federally insured depository institutions” was used. That terminology would not only address credit unions, but also address other such institutions – including banks.

Response to Bly’s question – GS 54-109.21 (25) grants the NCCUD Administrator the authority to adopt rules permitting state chartered credit unions to engage in any activity in which they could engage if they were federally chartered credit unions. Are there any such rules? Answer, yes – If you review the rules there are at least 13 different instances when the authority cited in the history note references GS 54-109.21 (25) – including 04 NCAC 06C.0101, .0202, .0203, .0206, .0209, .0313, .0403, .0407, .0408, .0410, .1204, .1205 and .1401

Chapter 1A – Rules of Civil Procedure – Authority: GS 54-109.21 (17) and (18)

Rule 22. Interpleader.

(a) Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims expose or may expose the plaintiff to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of crossclaim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

(b) Where funds are subject to competing claims by parties to the action, the court may order the party in possession of the funds either to deposit the funds in an interest bearing account in a **bank, savings and loan, or trust company** licensed to do business in this State or to deposit the funds with the clerk. If the funds are deposited in a **bank, savings and loan, or trust company**, the court shall specify the type of interest bearing account to be used. Funds deposited with the clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon determination of the action, the judgment shall provide for disbursement of the principal and interest earned on the funds while so deposited. (1967, c. 954, s. 1; 1989, c. 668.)

Chapter 20 – Motor Vehicles – GS 54-109.21 (6) and (7); 54-109.53; 54-109.55

§ 20-63.01. Bonds required for commission contractors.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of

the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Division; (ii) which is executed by the applicant; (iii) which is executed by a state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.
- (2) A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section. (2007-488, s. 1.)

Chapter 42A – Vacation Rental Act – Authority 54-109.21 (6) and (7)

§ 42A-17. Accounting; reimbursement.

- (a) A vacation rental agreement shall identify the name and address of the bank or savings and loan association in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property.

Chapter 85B – Auctions and Auctioneers – Authority 54-109.21 (6) and 54-109.55

§ 85B-7.1. Handling clients' funds.

- (a) Each licensee who does not disburse all funds to the seller on auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the seller on auction day. The licensee shall deposit funds that are not disbursed on auction day with an insured bank or savings and loan association located in North Carolina. At or before the time of all final settlements, the auctioneer

shall provide the seller or consignor with a settlement statement, which includes a description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent and by the person receiving the disbursement.

§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.

(7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in an insured **bank or savings and loan association** located in North Carolina funds received for another person through sale at auction.

Chapter 86A – Barbers– Authority 54-109.21 (6) and (7); 54-109.55

§ 86A-22. Licensing and regulating barber schools and colleges.

- (7) a. Each school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95.

The North Carolina State Board of Barber Examiners may revoke the approval of a school that fails to maintain a bond or an alternative to a bond pursuant to this subdivision or G.S. 115D-95.

- b. When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal

year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for approval shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subpart and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subpart. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for

which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above. (1945, c. 830, s. 8; 1961, c. 577, s. 5; 1973, c. 1331, s. 3; 1979, c. 695, s. 1; 1981, c. 457, s. 12; 1989 (Reg. Sess., 1990), c. 824, s. 3; 1995, c. 397, s. 1; 1995 (Reg. Sess., 1996), c. 605, ss. 10, 11; 2004-146, s. 7.)

Chapter 88B-Cosmetic Art— Authority 54-109.21 (6) and (7); 54-109.55

§ 88B-17. Bond required for private cosmetic art schools. (a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

(3) The bond shall remain in force and effect until canceled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may

file one of the following instead of a bond with the clerk of court in the county in which the school is located:

- (1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation, and access to the account is subject to the same conditions as those for a bond in subsection (b) of this section.
- (2) A certificate of deposit that is executed by a state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section. (1989 (Reg. Sess., 1990), c. 824, s. 4; 1991, c. 636, s. 5; 1998-230, s. 2.)

Chapter 90 – Medicine and Allied Occupations – Authority 54-109.21 (6) and (7); 54-109.55

§ 90-171.55. Nurses Aides Registry.

(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission.

- (b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.

- (2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or the program ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a program shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the program. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for a license shall include a letter signed by an authorized representative of the program showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subdivision and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

- a. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board;

(ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

- b. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection. (1989, c. 323, s. 1; 1989 (Reg. Sess., 1990), c. 824, s. 5; 1999-254, s. 1.)

§ 90-210.86. Deposit or investment of funds of mutual burial associations.

Funds belonging to each mutual burial association over and above the amount determined by the Board of Funeral Service to be necessary for operating capital shall be invested in:

- (1) Deposits in any bank or trust company in this State.
- (2) Obligations of the United States of America.
- (3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.
- (4) Obligations of the State of North Carolina.
- (5) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Board of Funeral Service may impose.
- (6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that any such savings and loan association is insured by the United States of America or any agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.

- (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase.

Violation of the provisions of this section shall, after hearing, be cause for revocation or suspension of license to operate a mutual burial association. (1957, c. 820, s. 1; 1975, c. 837; 1987, c. 864, s. 12; 1997-313, s. 5; 2001-487, s. 14(l); 2003-420, ss. 1, 17(b).)

Chapter 93A -- Real Estate License Law-- Authority 54-109.21 (6) and (7); 54-109.55

§ 93A-3. Commission created; compensation; organization.

- (b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall receive as compensation for each day spent on work for the Commission a per diem in an amount established by the Commission by rule, and mileage reimbursement for transportation by privately owned automobile at the business standard mileage rate set by the Internal Revenue Service per mile of travel along with actual cost of tolls paid. The total expense of the administration of this Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission or the compensation or expenses of any office thereof or any employee shall ever be paid or payable out of the treasury of the State of North Carolina; and neither the Commission nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt or other financial obligation binding upon the State of North Carolina. After all expenses of operation, the Commission may set aside an expense reserve each year. The Commission may deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may approve, in any bank, savings and loan association, or trust company. Moneys also may be invested in the same classes of securities referenced in G.S. 159-30(c).

§ 93A-42. Time shares deemed real estate.

- (c) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a bank or savings and loan association located in this State. The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been

recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by the independent escrow agent.

§ 93A-45. Purchaser's right to cancel; escrow; violation.

- (d) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by such developer or salesperson in a trust or escrow account in **an insured bank or savings and loan association** in North Carolina and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

Article 14C.

Powers of Credit Union.

§ 54-109.21. General powers.

A credit union may:

- (1) Make contracts;
- (2) Sue and be sued;
- (3) Adopt and use a common seal and alter the seal;
- (4) Acquire, lease, hold and dispose of property, either in whole or in part, necessary or incidental to its operations;
- (5) At the discretion of the board of directors, require the payment of an entrance fee or annual membership fee, or both, of any person admitted to membership;
- (6) Receive savings from its members in the form of shares, deposits, or special-purpose thrift accounts;
- (7) Lend its funds to its members as provided in Articles 14A to 14L of this Chapter;
- (8) Borrow from any source in accordance with policy established by the board of directors;
- (9) Discount and sell any eligible obligations, subject to rules adopted by the Administrator;
- (10) Sell all or substantially all of its assets or purchase all or substantially all of the assets of another financial institution, subject to the approval of the Administrator of Credit Unions;
- (11) Invest surplus funds as provided in Articles 14A to 14L of this Chapter;
- (12) Make deposits in legally chartered banks, savings institutions, trust companies and central-type credit union organizations;
- (13) Assess charges to members in accordance with the bylaws for failure to meet properly their obligations to the credit union;
- (14) Hold membership in other credit unions organized under Articles 14A to 14L of this Chapter or other acts, and in other associations and organizations composed of credit unions;
- (15) Declare dividends; pay interest on deposits and pay interest refunds to borrowers as provided in Articles 14A to 14L of this Chapter;
- (16) Sell travelers checks and money orders and charge a reasonable fee for such services, provided the travelers checks are payable at institutions other than a credit union;
- (17) Perform tasks and missions requested by the federal government or this State or any agency or political subdivision thereof, when approved by the board of directors and not inconsistent with Articles 14A to 14L of this Chapter;
- (18) Act as fiscal agent for and receive deposits from the federal government, this State, or any agency or political subdivision thereof;
- (19) Contribute to, support, or participate in any nonprofit service facility whose services will benefit the credit union or its membership subject to rules adopted by the Administrator;
- (20) Make donations or contributions to any civic, charitable or community organization as authorized by the board of directors, subject to such regulations as are prescribed by the Administrator;
- (21) Act as a custodian of qualified pension funds if permitted by federal law;

- (22) Purchase or make available insurance for its directors, officers, agents, employees, and members; insurance may be provided through any insurance company or through any subsidiary insurance company owned by the credit union; and
- (23) Facilitate its members' purchase of goods and services in a manner which promotes the purposes of the credit union.
- (24) The board of directors may expel from the corporation any member who has not carried out the engagement the member made with the corporation, has been convicted of a felony or crime involving moral turpitude, or neglects or refuses to comply with the provisions of this Article or of the bylaws. The Board may, after notice and hearing as provided in this subdivision, expel from the corporation any member who because of the member's intemperance disrupts the activities of the credit union or who because of the member's habitual neglect of financial obligations reflects discredit upon the credit union. No member shall be expelled until informed in writing of the charges made and given an opportunity, after reasonable notice, to be heard.
- (25) Engage in activity permitted under this subdivision. Notwithstanding any other provision of this Chapter, the Administrator of Credit Unions, subject to the advice and consent of the Credit Union Commission, and upon a finding that action is necessary to preserve and protect the welfare of credit unions and to promote the general economy of the State, may adopt rules allowing State-chartered credit unions to engage in any activity in which they could engage if they were federally chartered credit unions.
- (26) Subject to rules adopted by the Administrator, act as trustee or custodian, and receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized and forming a part of a deferred compensation plan for its members or groups or organizations of its members, provided the funds of the plans are invested in savings or deposits of the credit union. All funds held may be commingled for the purpose of investment, but individual records shall be kept by the credit union for each participant and shall show in proper detail all transactions engaged in under authority of this subdivision.

A member may withdraw from a credit union by filing a written notice of intent to withdraw.

The amounts paid in on shares or deposits by an expelled or withdrawing member, with any dividends credited to the shares and any interest accrued on the deposits to the date of expulsion or withdrawal shall be paid to the member, but in the order of expulsion or withdrawal, and only as funds therefor become available, after deducting any amounts due to the credit union by the member. The member shall have no other or further right in the credit union or to any of its benefits, but the expulsion or withdrawal shall not operate to relieve the member from any remaining liability to the credit union. (1915, c. 115, ss. 5, 16, 17, 23; C.S., ss. 5216-5218, 5231; 1925, c. 73, ss. 3, 10; 1935, c. 87; 1965, c. 956, s. 8; 1975, c. 538, s. 1; 1977, c. 559, s. 5; 1983, c. 568, s. 2; 1991, c. 651, s. 3; 2011-221, s. 1.)

Article 14F.

Savings Accounts.

§ 54-109.53. Shares.

(a) The capital of a credit union consists of the payments made by members on shares, undivided surplus, and reserves.

(b) Shares may be subscribed to, paid for and transferred in such manner as the bylaws prescribe.

(c) A certificate need not be issued to denote ownership of a share in a credit union. (1915, c. 115, s. 13; C.S., s. 5226; 1925, c. 73, s. 3; 1935, c. 87; 1965, c. 956, ss. 16, 17; 1975, c. 538, s. 1.)

§ 54-109.55. Deposits.

A credit union may receive on deposit the savings of its members and also nonmembers in such amounts and upon such terms as the board of directors may determine and the bylaws shall provide. (1915, c. 115, s. 16; C.S., s. 5217; 1925, c. 73, s. 3; 1935, c. 87; 1975, c. 538, s. 1.)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-93
HOUSE BILL 511

AN ACT TO MAKE VARIOUS STATUTORY CHANGES RELATED TO CREDIT
UNIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-4-110(a) reads as rewritten:

"§ 47C-4-110. Escrow of deposits.

(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be immediately deposited in a trust or escrow account in ~~an insured bank or savings and loan association in North Carolina~~ a federally insured depository institution lawfully doing business in this State and shall remain in such account for such period of time as a purchaser is entitled to cancel pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the seller."

SECTION 2. G.S. 42-50 reads as rewritten:

"§ 42-50. Deposits from the tenant.

Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and insured ~~bank or savings institution located in the State of North Carolina~~ federally insured depository institution lawfully doing business in this State or the landlord may, at his option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of said deposits. The landlord or his agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where his deposit is currently located or the name of the insurance company providing the bond."

SECTION 3. G.S. 42A-15 reads as rewritten:

"§ 42A-15. Trust account uses.

A landlord or real estate broker may require a tenant to pay all or part of any required rent, security deposit, or other fees permitted by law in advance of the commencement of a tenancy under this Chapter if these payments are expressly authorized in the vacation rental agreement. If the tenant is required to make any advance payments, other than a security deposit, whether the payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these payments in a trust account in ~~an insured bank or savings and loan association in North Carolina~~ a federally insured depository institution lawfully doing business in this State no later than three banking days after the receipt of these payments. These payments deposited in a trust account shall not earn interest unless the landlord and tenant agree in the vacation rental agreement that the payments may be deposited in an interest-bearing account. The landlord and tenant shall also provide in the agreement to whom the accrued interest shall be disbursed."

SECTION 4. G.S. 54-109.82 reads as rewritten:

"§ 54-109.82. Investment of funds.

The capital, deposits, undivided profits and reserve fund of the corporation may be invested only in any of the following ways:

- ...
- (13) In higher education bonds permissible under G.S. 116D-2, provided that such bonds pledge the faith, credit, and taxing power of the State for the payment of the principal of and interest on bonds and notes."

SECTION 5. G.S. 54-109.38 reads as rewritten:



"§ 54-109.38. Compensation of officials.

No member of the board of directors or of the credit committee or supervisory committee shall be compensated for his service in this position, but providing reasonable life, health, accident and similar insurance protection for a director or committee member shall not be considered compensation. Directors and committee members, while on official business of the credit union, may be reimbursed for necessary and reasonable expenses incidental to the performance of the business. Such reimbursement may include the payment of expenses for one guest."

SECTION 6. This act is effective when it becomes law.

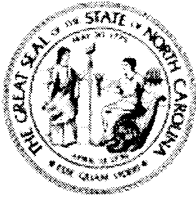
In the General Assembly read three times and ratified this the 11th day of June, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:02 a.m. this 19th day of June, 2015



HOUSE BILL 511: Credit Unions/Statutory Changes

This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.

2015-2016 General Assembly

Committee:	House Banking	Date:	April 23, 2015
Introduced by:	Reps. Ross, J. Bell, Bradford, Glazier	Prepared by:	Drupti Chauhan
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 511 would:

- *Replace the terms "insured bank or savings and loan association" with "federally insured depository institution".*
- *Provide an additional way that credit unions can invest their funds.*
- *Provide that certain officials of credit unions may also be reimbursed for "reasonable expenses".*

SECTIONS 1-3- ESCROW AND TRUST ACCOUNTS

CURRENT LAW:

Section 1: Deposits made in connection with the purchase or reservation of a condo unit must be deposited into a trust or escrow account in an insured bank or savings and loan association.

Section 2: Security deposits from tenants must be deposited into a trust account with a licensed and insured bank or savings institution located in the State.

Section 3: Advance payments other than security deposits for vacation rentals must be deposited into a trust account in an insured bank or savings and loan association in the State.

BILL ANALYSIS and BACKGROUND: Credit union and bank accounts are insured up to \$250,000 by the full faith and credit of the United States through the National Credit Union Administration and the Federal Deposit Insurance Corporation. Prior to December 2014, funds in escrow accounts at credit unions were not considered insured unless both parties were members of the credit union. Federal law was changed in December 2014 in the Credit Union Share Insurance Fund Parity Act which extended insurance coverage to escrow accounts. Sections 1-3 of House Bill 511 would make statutory changes so that credit unions were covered in the types of institutions that could offer trust and escrow accounts by using the term "federally insured depository institution".

SECTION 4 – INVESTMENT OF FUNDS

CURRENT LAW: State chartered credit unions may invest their capital, deposits, undivided profits, and reserve funds only in ways specified in G.S. 54-109.82 and G.S. 147.69.1 (investments allowed by the State Treasurer).

BILL ANALYSIS: Section 4 of the bill would allow the funds to also be invested in higher education bonds under G.S. 116D-2 if those bonds pledge the faith, credit and taxing power of the State for the payment of the principal of and interest on bonds and notes. Credit unions are already listed as eligible investors under G.S. 116D-2.

SECTION 5 – COMPENSATION OF OFFICIALS

O. Walker Reagan
Director



Research Division
(919) 733-2578

* H 5 1 1 - S M R Q - 2 0 E 1 - V 2 *

House Bill 511

Page 2

CURRENT LAW: Members of the board of directors or of the credit committee or supervisory committee cannot be compensated for this service but they may be provided reasonable life, health, accident, and similar insurance protection. Directors and committee members can be reimbursed for necessary expenses incidental to the performance of official business of the credit union.

BILL ANALYSIS: Section 5 would clarify that reimbursement could occur for reasonable expenses incidental to the performance of official business and that reimbursement can include the payment of expenses for one guest.

EFFECTIVE DATE: The bill would become effective when it becomes law.

David Unwin (Bill Drafting)

From: E. Knox Proctor V - 5427 <EKP@wardandsmith.com>
Sent: Wednesday, June 01, 2016 10:46 AM
To: Bly Hall (Bill Drafting)
Cc: Floyd Lewis (Bill Drafting); David Unwin (Bill Drafting)
Subject: RE: question for possible technical amendment - you seem to be the expert

Bly:

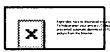
Here is my suggestion for all three statutes: "any federally-insured depository institution or any trust institution (as defined in G.S. 53-301) **with a physical office in this State.**"

The bolded language is optional and depends on whether the legislators want the policy to be that the deposits must be located within North Carolina. I kind of expect they would. The word "license" will not make that happen. Neither will the word "office" without "physical" because of the definition of "office" in G.S. 53-301.

Basically banks, savings institutions and credit unions have deposit insurance because they lend out their funds. Trust funds are deposits but are NOT lent out. Therefore, trust companies (institutions that do trust work but do not lend) are not required to carry deposit insurance but some (including those organized s national banks) do so anyway. Similarly, trust funds carried in the trust departments of banks are not loaned out, but the cash components are nevertheless insured.

I hope this helps. Please feel free to call me to discuss further: 262-672-5427.

Knox



Knox Proctor V
Attorney

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From: Bly Hall (Bill Drafting) [<mailto:Bly.Hall@ncleg.net>]
Sent: Tuesday, May 31, 2016 6:15 PM
To: E. Knox Proctor V - 5427
Cc: Floyd Lewis (Bill Drafting); David Unwin (Bill Drafting)
Subject: question for possible technical amendment - you seem to be the expert
Importance: High

Knox,

The General Statutes Commission has received a request to include a package of technical amendments in its part of the technical corrections bill that would in essence add credit unions to various lists of banking-type institutions. The suggested change, however, is to replace the existing lists with the term

“Federally insured depository institutions”, along the lines of last year’s amendments in SL 2015-93, rather than simply adding a reference to credit unions. We’re not sure about this language in three statutes where one of the institutions in these lists is a “trust company.”

I’m told that trust companies aren’t federally insured because they’re not depository institutions. If that’s true, the proposed change would exclude trust companies, and we may need to say something more like “a Federally insured depository institution or a trust company.” On the other hand, if trust companies don’t take deposits, it may be that they could be deleted anyway from the three statutes in question. I know nothing about the law in this area, however, and I was accordingly referred to you as someone who has expert knowledge.

Briefly, in G.S. 1A-1, Rule 22(b), 90-210.86, and 93A-3(b), would the proposed change cause a problem for trust companies?

Bly Hall (Bill Drafting)

Assistant Revisor of Statutes